

307 KAR 3:010. Kentucky Industrial Revitalization Act Tax Credit Program.

RELATES TO: KRS 154.26-010-154.26-100

STATUTORY AUTHORITY: KRS 154.26-030(5)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to set out the application process, hearing procedure and project selection criteria for the Kentucky Industrial Revitalization Act Tax Credit Program established pursuant to KRS 154.26-010 through 154.26-100.

Section 1. Definitions. (1) "Act" means KRS 154.26-010 through 154.26-100.

(2) "Agreement" is defined in KRS 154.26-010.

(3) "Approved company" is defined in KRS 154.26-010.

(4) "Authority" is defined in KRS 154.26-010.

(5) "Commonwealth" is defined in KRS 154.26.010.

(6) "Economic revitalization project" is defined in KRS 154.26-010.

(7) "Eligible company" is defined in KRS 154.26-010.

(8) "Inducements" is defined in KRS 154.26-010.

(9) "Manufacturing" is defined in KRS 154.26-010.

Section 2. Eligibility Standards. (1) The authority shall approve eligible companies based upon the:

(a) Information supplied to the authority in the application, pursuant to Section 3(2)(a) through (i) of this administrative regulation; and

(b) Comments received at the public hearing pursuant to Section 4(1) of this administrative regulation.

(2) In determining whether to approve an eligible company for the Kentucky Industrial Revitalization Act Tax Credit Program the authority shall give greatest weight to the:

(a) Information supplied in the application pursuant to Section 3(2)(a) through (c) of this administrative regulation; and

(b) Comments received at the public hearing pursuant to Section 4(1) of this administrative regulation.

Section 3. Kentucky Industrial Revitalization Act Tax Credit Program. (1) Companies that wish to participate in the Kentucky Industrial Revitalization Act Tax Credit Program shall file an application with the authority.

(2) The application shall contain the following information:

(a) The eligible company's need for the economic revitalization project, and the reasons for the intent of the eligible company to close its manufacturing facility. As a part of this needs analysis the eligible company shall provide to the authority:

1. The company's financial history;

2. Written evidence of support in the community, including a letter of support from the local elected officials, including an acknowledgment that the local community is supportive of the job assessment inducement; and

3. Written evidence of the projected cost of the project, including:

a. Building improvements;

b. Equipment purchase or upgrade;

c. Machinery purchase or upgrade;

d. Additional inventory required; and

e. Additional personnel required;

(b) The specific projected amount and timing of capital investment by the eligible company that will result in financial stability for the manufacturing facility of the eligible company. The authority shall, as a part of its analysis of projected amount and timing of capital investment review the information and documentation provided in the application pursuant to paragraph (a)3 of this subsection;

(c) The projected number of employees to be retained and to be hired in the future at the manufacturing facility of the eligible company over a five (5) year period from the commencement date of the agreement and as a result of the receipt of the inducements. As a part of its analysis pursuant to this paragraph the authority shall consider the following information:

1. The current number of jobs at the project location, both full time and part time;
2. The increase in the number of full-time and part-time jobs at the project location after an eighteen (18) month period;
3. The total number of full-time and part-time jobs projected two (2) years after project completion;
4. The number of skilled, semiskilled, unskilled, managerial and technical jobs created by the project; and
5. The number of full-time and part-time jobs retained by the project;

(d) Evidence, based upon the financial information provided pursuant to this section, that except for a substantial investment in the economic revitalization project, assisted by the inducements authorized by the act, the eligible company will close its manufacturing facility, permanently lay off its employees and cease operations;

(e) A detailed description of the company's productivity, efficiency and financial stability as required by KRS 154.26-080(4);

(f) A list of alternatives to closing the manufacturing facility available to the eligible company pursuant to KRS 154.26-080(4);

(g) Copies of the eligible company's financial statements for the most current fiscal year end;

(h) The lending source for the project;

(i) Notice that a \$500 nonrefundable application fee payable to the authority shall be submitted with the application;

(j) Notice that an administrative fee of one-tenth (.1) of one (1) percent of fifty (50) percent of the estimated approved costs for the entire period, with a minimum administrative fee of \$1,000 in addition to the \$500 application fee, is payable upon execution of the agreement;

(k) Notice of the one (1) time \$2,500 fee required by KRS 154.35-042(1);

(l) Notice of the additional five (5) percent fee required by KRS 154.35-042(2);

(m) 1. Notice that a completed Economic Development Incentive Disclosure Statement and Benefit Analysis Data Form shall be submitted as a part of the application;

2. The Disclosure Statement and Data Form are incorporated by reference in Section 6 of this administrative regulation.

Section 4. Hearing Procedure. (1) The authority shall appoint a hearing agent and hold at least one (1) public hearing to solicit public comments and at the hearing the consultant referred to in KRS 154.26-080 shall address the standards in KRS 154.26-080.

(2) The hearing shall be held in Frankfort and notice of the hearing shall:

(a) Be given pursuant to KRS 424.130; and

(b) Include the date, time and precise location, including street address, where the hearing shall be held.

(3) The public shall be afforded the opportunity to present evidence and comment on the application at the public hearing.

(4) Public hearings shall be conducted informally to allow reasonable commentary on the application.

(5) Public hearings shall be tape recorded by the authority and copies made available to the pub-

lic at a cost which shall not exceed the expense of providing the copy.

(6) The hearing agent shall summarize the comments offered at the public hearing and shall submit the summary to the authority for its consideration of whether to designate the eligible company as an approved company.

(a) The hearing agent shall not express an opinion about whether the eligible company should be designated by the authority as an approved company.

(b) Two (2) copies of the report of the hearing agent shall be completed and provided to the authority at least ten (10) days prior to its meeting set to consider designating the eligible company as an approved company.

Section 5. Agreement Contents. The authority may require the following additional information as a part of the negotiated terms of an agreement pursuant to KRS 154.26-090:

(1) Annual, quarterly or monthly progress reports to the authority;

(2) Annual, quarterly or monthly financial reports to the authority; and

(3) Access to the approved company's records.

Section 6. Incorporation by Reference. (1) The "Application for Kentucky Industrial Revitalization Act Program" which also includes the "Economic Development Incentive Disclosure Statement" and "Benefit Analysis Data Form" March 1995) is incorporated by reference.

(2) Copies of the form of application may be inspected, copied or obtained at the offices of the Cabinet for Economic Development, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m., Monday through Friday. (19 Ky.R. 2536; Am. 20 Ky.R. 70; eff. 6-25-93; 21 Ky.R. 2739; 22 Ky.R. 40; eff. 7-6-95.)